

AMENDED IN ASSEMBLY MAY 23, 2005

AMENDED IN SENATE MARCH 29, 2005

**SENATE BILL**

**No. 370**

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**Introduced by Senator Bowen**

February 17, 2005

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An act to amend Sections 12223 and 15627 of, and to add Section 19253 to, the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

SB 370, as amended, Bowen. Elections.

Existing law requires the boundaries of an election precinct to be fixed such that it contains no more than 1,000 voters on the 88th day prior to the election.

This bill would authorize a local elections official to subtract permanent absent voters from that total.

Existing law requires the Secretary of State to establish the specifications and the regulations governing voting machines, voting devices, and any software used, including the programs and procedures for vote tabulating and testing. The Secretary of State may not approve any voting system that does not fulfill statutory and regulatory requirements. Existing law also prohibits the Secretary of State from approving a direct recording electronic voting system that does not include an accessible voter verified paper audit trail, and will prohibit, on and after January 1, 2006, a city or county from contracting for or purchasing a direct recording electronic voting system that does not include an accessible voter verified paper audit trail. In addition, existing law requires that, as of January 1, 2006, all direct recording electronic voting machines in use on that date, regardless of when contracted for or purchased, shall have received

federal qualification, as defined, and shall include an accessible voter verified paper audit trail.

This bill would provide that on a direct recording electronic voting system, the electronic record of each vote shall be considered the official record of the vote, except that the ~~paper record~~ *voter verified paper audit trail* shall be the official paper audit record and shall be used in the manual tally and any recount.

Existing law provides that, if in the event of a recount of an election in which the votes were recorded by a punchcard, electronic, or electromechanical system, the voter demanding the recount may select whether the recount is conducted manually, by means of the voting system used originally, or both.

This bill would provide that for purposes of direct recording electronic voting systems, “conducted manually” means *either* that the paper record copies *or the voter verified paper audit trail* of the electronically recorded vote are counted manually, *as selected by the voter who requests the recount*. By increasing the duties of local elections officials, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 12223 of the Elections Code is
- 2 amended to read:
- 3 12223. (a) Whenever a jurisdiction is divided into election
- 4 precincts or whenever the boundary of an established precinct is
- 5 changed or a new precinct is created, the precinct boundary shall
- 6 be fixed in a manner so that the number of voters in the precinct
- 7 does not exceed 1,000 on the 88th day prior to the day of
- 8 election, unless otherwise provided by law.

(b) An elections official may subtract the number of permanent absent voters pursuant to Chapter 3 (commencing with Section 3200) of Division 3, from the total number of voters for purposes of complying with subdivision (a).

SEC. 2. Section 15627 of the Elections Code is amended to read:

15627. (a) If in the election which is to be recounted the votes were recorded by means of a punchcard voting system or by electronic or electromechanical vote tabulating devices, the voter who files the declaration requesting the recount may select whether the recount shall be conducted manually, or by means of the voting system used originally, or both.

(b) For purposes of direct recording electronic voting systems, “conducted manually” means that *either* the paper record copies *or the voter verified paper audit trail* of the electronically recorded vote are counted manually, *as selected by the voter who requests the recount*.

SEC. 3. Section 19253 is added to the Elections Code, to read:

19253. (a) On a direct recording electronic voting system, the electronic record of each vote shall be considered the official record of the vote, except as provided in subdivision (b).

(b) (1) ~~The paper record copy~~ *voter verified paper audit trail* shall be considered the official paper audit record and shall be used for the required 1-percent manual tally described in Section 15360 and any full recount.

(2) ~~The paper record copy~~ *voter verified paper audit trail* shall govern if there is any difference between it and the electronic record during a 1-percent manual tally or full recount.

SEC. 4. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.